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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,224	12/09/2003	Neil P. Desai	225602	4904

25226 7590 03/06/2007  
MORRISON & FOERSTER LLP  
755 PAGE MILL RD  
PALO ALTO, CA 94304-1018

EXAMINER
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TSAY, MARSHA M

ART UNIT	PAPER NUMBER
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1656

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	03/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 12, 2006 has been entered.

Claims 1, 4-18, 84, 97-225 are pending.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 4-17, 97-102, 148, 155-160, 203-208, 219, drawn to a pharmaceutical composition comprising a pharmaceutical agent and a pharmaceutically acceptable carrier, classified in class 530, subclass 362.
- II. Claims 18, 111-127, 149-151, 161-181, 216, 220-224, drawn to a pharmaceutical composition comprising a pharmaceutical agent, albumin, and deferoxamine in an amount effective to inhibit oxidation, classified in class 530, subclass 362.
- III. Claims 84, 128-130, 131-147, 152-154, 182-202, 217, 218, 222-223, 225, drawn to a pharmaceutical composition comprising a pharmaceutical agent, albumin, and deferoxamine in an amount effective to inhibit microbial growth, classified in class 530, subclass 362.

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- IV. Claims 103-104, 107-110, 215, drawn to a pharmaceutical composition comprising a pharmaceutical agent, 1% to 25% by weight of albumin, and deferoxamine in an amount effective to inhibit microbial growth, classified in class 530, subclass 362.
- V. Claims 105-106, 209-214, drawn to a pharmaceutical composition comprising a pharmaceutical agent, albumin, deferoxamine, and 0.0001% to 0.5% by weight of deferoxamine mesylate, classified in class 530, subclass 362.

The inventions are distinct, each from the other because of the following reasons:

The products of Groups I-V are patentably distinct each from the other because the compositions of Groups I-V have different pharmaceutical agents and ratios and/or amounts of carrier, i.e. albumin, deferoxamine, present, and therefore have distinctly different properties and/or effects.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species: pharmaceutical agents, i.e. paclitaxel, docetaxel, taxanes, camptothecin, propofol, amiodarone, cyclosporine, rapamycin, amphotericin, liothyronine, epothilones, colchicines, thyroid hormones, vasoactive intestinal peptide, corticosteroids, melatonin, tacrolimus, mycophenolic acids (claims

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1, 114, 134), anticancer agents, anesthetics, antimicrotubule agents, cardiovascular disorder agents, antihypertensives, anti-inflammatory agents, anti-arthritic agents, antiasthmatics, analgesics, vasoactive agents, immunosuppressive agents, antifungal agents, antiarrhythmic agents, antibiotics, hormones (claims 161, 168, 175, 182, 189, 196). The species are independent or distinct because each pharmaceutical agent is structurally different and has different properties and effects.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 18, 84, are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marsha M. Tsay whose telephone number is 571-272-2938. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 1, 2007

*M. Monshi*  
**MARYAM MONSHIPOURI, PH.D.**  
**PRIMARY EXAMINER**